

## Securities and Exchange Commission

## § 240.12b-23

principal executive and principal financial officer of the registrant. An amendment to any report required to include the certifications as specified in § 240.13a-14(d) or § 240.15d-14(d) must include a new certification by an individual specified in § 240.13a-14(e) or § 240.15d-14(e), as applicable. The requirements of the form being amended will govern the number of copies to be filed in connection with a paper format amendment. Electronic filers satisfy the provisions dictating the number of copies by filing one copy of the amendment in electronic format. See § 232.309 of this chapter (Rule 309 of Regulation S-T).

[68 FR 36665, June 18, 2003, as amended at 70 FR 1620, Jan. 7, 2005]

### GENERAL REQUIREMENTS AS TO CONTENTS

#### § 240.12b-20 Additional information.

In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading.

(Secs. 4, 16, 19, 24, 48 Stat. 77, 896, 85, as amended, 901; 15 U.S.C. 77d, 78p, 77s, 78x)

[30 FR 2023, Feb. 13, 1965]

#### § 240.12b-21 Information unknown or not available.

Information required need be given only insofar as it is known or reasonably available to the registrant. If any required information is unknown and not reasonably available to the registrant, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the registrant, the information may be omitted, subject to the following conditions.

(a) The registrant shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof.

(b) The registrant shall include a statement either showing that unrea-

sonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to such person for the information.

#### § 240.12b-22 Disclaimer of control.

If the existence of control is open to reasonable doubt in any instance, the registrant may disclaim the existence of control and any admission thereof; in such case, however, the registrant shall state the material facts pertinent to the possible existence of control.

#### § 240.12b-23 Incorporation by reference.

(a) Except for information filed as an exhibit which is covered by Rule 12b-32 (17 CFR 240.12b-32), information may be incorporated by reference in answer, or partial answer, to any item of a registration statement or report subject to the following provisions:

(1) Financial statements incorporated by reference shall satisfy the requirements of the form or report in which they are incorporated. Financial statements or other financial data required to be given in comparative form for two or more fiscal years or periods shall not be incorporated by reference unless the material incorporated by reference includes the entire period for which the comparative data is given;

(2) Information in any part of the registration statement or report may be incorporated by reference in answer, or partial answer, to any other item of the registration statement or report; and

(3) Copies of any information or financial statement incorporated into a registration statement or report by reference, or copies of the pertinent pages of the document containing such information or statement, shall be filed as an exhibit to the statement or report, except that:

(i) A proxy or information statement incorporated by reference in response to Part III of Form 10-K (17 CFR 249.310);

(ii) A form of prospectus filed pursuant to 17 CFR 230.424(b) incorporated by reference in response to Item 1 of Form 8-A (17 CFR 249.208a); and